

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:13-cv-149-RLV  
(5:09-cr-25-RLV-DCK-1)**

<b>ALEJANDRO SALINAS GARCIA,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>ORDER</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	

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**THIS MATTER** is before the Court on its own motion following the Government's Response to Petitioner's motion to vacate, set aside or correct sentence brought under 28 U.S.C. § 2255, in which the Government has conceded that an evidentiary hearing is appropriate to address Petitioner's claim of ineffective assistance of counsel based on counsel's alleged conflict of interest when representing Petitioner. Petitioner is represented by Dallas Craig Hughes.

On February 11, 2010, Petitioner pled guilty in this Court to conspiracy to distribute and possess with intent to distribute cocaine base and marijuana, in violation of 21 U.S.C. §§ 841 and 846. Petitioner claims in the underlying motion to vacate that counsel David Freeman, the attorney who represented him when he pled guilty, had an actual conflict that adversely affected his representation, that the Fair Sentencing Act should have applied at his sentencing, that this Court erred in denying his motion to withdraw his guilty plea, that this Court should have ordered a competency hearing, and that the Government breached the plea agreement by withdrawing its downward departure motion. The Government asserts in its Response that, out of an abundance of caution, an evidentiary hearing is necessary to resolve factual disputes between Petitioner and

his attorney's differing accounts as to whether Petitioner's counsel had a conflict of interest when representing Petitioner. The Court will, therefore, conduct an evidentiary hearing in this matter on the sole issue of Petitioner's contention that his counsel Freeman had a conflict of interest that adversely affected his representation of Petitioner.

**IT IS, THEREFORE, ORDERED** that:

1. The Bureau of Prisons and the U.S. Marshals Service are hereby ORDERED to transport and produce the body of Alejandro Salinas Garcia (USM #21764-279), for an Evidentiary Hearing on June 3, 2015, at 2 p.m., before the Honorable Richard L. Voorhees, in the Western District of North Carolina, Statesville Courthouse, 200 W. Broad St., 2<sup>nd</sup> Floor Courtroom, Statesville, North Carolina. Upon completion of the Evidentiary Hearing, Petitioner is to be returned to the custody of the Bureau of Prisons.
2. The Clerk is directed to certify copies of this Order to the United States Attorney, Petitioner's Counsel, the U.S. Marshal Service, and the U.S. Probation Office.

**IT IS SO ORDERED.**

Signed: April 27, 2015



Richard L. Voorhees  
United States District Judge

